

TOWN OF LOOMIS

ADMINISTRATIVE POLICIES AND PROCEDURES

DRUG FREE WORKPLACE POLICY

Effective Date: 12/13/1994; Amended 1/14/1997

Resolution 97-03

PURPOSE

The purpose of this policy is to identify and eliminate substance abuse and its effects in the workplace, to be on record that the Town will not tolerate substance abusers among its work force, to educate employees about the dangers of substance abuse, and to institute procedures for the detection and elimination of employee substance abuse.

The need for this policy is to state that the Town recognizes its responsibility to maintain a safe healthful and productive work environment and each employee's responsibility to perform work for the public safely, effectively and efficiently.

The objective of this policy is to ensure that public safety and the welfare of Town employees is not endangered as a result of substance abuse.

INTRODUCTION

It is the policy of the Town of Loomis to maintain a drug-free workplace. It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the Town of Loomis has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently in the interest of their fellow workers and the public as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance. A current list of available counseling and rehabilitation programs will be maintained by the Town's personnel manager. While the Town will be supportive of those who seek help voluntarily, the Town will be equally firm in identifying and disciplining those who do not seek help, or whose continued substance abuse either violates Town rules or interferes in the employee's job performance.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of Town of Loomis managers and employees. To that end, the Town of Loomis will act to eliminate any substance abuse which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Town's reputation. Substance abuse includes the use of, or possession of legal or illegal drugs, alcohol or any other substance which could or does impair an employees' ability to perform his or her job safely, effectively and efficiently.

All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including dismissal and may subject an employee to require satisfactory participation in an

approved substance abuse assistance or rehabilitation program. Applicants for employment with the Town may not be hired for failure to follow these guidelines.

In recognition of the public service responsibilities entrusted to the employees of the Town of Loomis, and the fact that drug and alcohol abuse can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the Town of Loomis.

POLICY

It is the Town's policy that no employee shall:

- A. report to work under the influence of alcohol or drugs;
- B. be under the influence of alcohol or drugs while subject to duty;
- C. possess drugs or alcohol while on duty or in uniform;
- D. sell, distribute, manufacture or provide alcohol and/or drugs to any employee or person while on duty or while subject to duty;
- E. have their ability to work impaired as a result of the use of alcohol or drugs.

In addition, employees whose ability to work or whose job performance is impaired as a result of off-the-job use of alcohol or controlled drugs will be in violation of this policy. Employees who violate any of the conditions listed in A-E above or whose job performance is impaired by off-the-job substance abuse will be considered "abusers."

Use of medically prescribed medications and drugs, within the guidelines established by the employee's doctor, is not a violation of this policy. However, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of town equipment, employees must notify their supervisor before beginning work. Failure to do so may result in discipline, up to and including dismissal. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician may be required.

The Town of Loomis reserves the right to search, without employee consent, all areas and property in which the Town maintains control or joint control with an employee in accordance with applicable state and Federal laws. A search of any container or property under joint control such as desks, cubicles and lockers may be conducted at any time providing the employee is notified or if the employee is present or if the employee gives consent.

When reasonable suspicion exists that illegal drugs or alcoholic beverages are in any areas of joint control as described above, reasonable notice will be provided to the affected employee. At the time of notice of intent to search, the property container will be sealed and remain sealed until the search occurs. Such searches of property containers shall be conducted by the Town Manager or a department head.

The affected employee and/or his/her employee organization representative shall be provided reasonable opportunity to be present at such searches.

The Town may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the Town.

Supervisory employees shall not physically search the person of employees, nor shall they search the purely personal possessions of employees without the freely given written consent of the employee. Purely personal possessions may be defined as the employee's purse, backpack or briefcase.

Refusal to submit immediately to an alcohol and/or drug analysis when requested by Town supervisory employees may constitute insubordination and may be grounds for discipline. Disciplinary action may extend up to and including dismissal.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work, and shall be detained for a reasonable time until the employee can be safely transported home.

The Town of Loomis is committed to providing reasonable accommodation to those employees whose drug and/or alcohol problem classifies them as disabled or handicapped under Federal and/or state law.

Any town employee convicted of criminal drug statute violations (including a plea of nolo contendere) occurring in the workplace must notify the Town of the conviction within five (5) days after the conviction. This notification to the Town will not relieve the employee from any disciplinary consequences of the conduct upon which the conviction is based. Within thirty (30) days of the notice, the Town will take appropriate action as to the employee.

The Town shall notify Federal agencies with which the town holds contracts or from which the Town receives grants within ten (10) days of receiving notice that a town employee has been convicted of a criminal drug statute for a violation occurring within the workplace.

The Town shall establish and maintain a drug-free awareness program to inform Town employees about:

- A. the dangers of substance abuse in the workplace; and
- B. the Town's policy of maintaining a substance abuse-free workplace; and
- C. the availability of substance abuse counseling and rehabilitation programs; and
- D. the penalties that may be imposed upon employees of substance abuse violations occurring in the workplace.

APPLICATION OF POLICY

This policy applies to all Town of Loomis employees and to all applicants for positions with the Town of Loomis. This policy applies to alcohol and to all substances, drugs or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

In the event a dispute arises with respect to the application or interpretation of this policy, such dispute shall be grievable pursuant to the grievance procedure contained in the personnel rules or for represented employees, the appropriate Memorandum of Understanding.

EMPLOYEE RESPONSIBILITY

An employee must:

- A. Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.
- B. Not possess or use alcohol or impairing drugs (illegal drugs or misuse of legally prescribed drugs) during work hours or while on breaks, during meal periods or at any time while on Town property or in uniform. Employees who are not at work, or one compensated-on-call, may be on Town of Loomis public property without being subject to this provision.
- C. No employee shall directly or through a third party knowingly sell, manufacture or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on Town grounds, on duty or subject to being called for duty.
- D. Submit immediately to an alcohol and drug test when requested by an appropriate Town supervisory employee.
- E. Notify his/her supervisor, before beginning work, when taking any prescription or non-prescription medications or drugs which may interfere with the safe and effective performance of duties or operation of Town equipment.
- G. Notify the Town of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- A. Supervisory employees are responsible for reasonable enforcement of this policy.
- B. Supervisory employees may request that an employee submit to a drug and/or alcohol test when a supervisory employee has a reasonable suspicion that an employee is under the influence of drugs or alcohol on the job or on compensated-on-call. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead to reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

1. slurred speech;
2. alcohol odor on breath;
3. unsteady walking and movement;
4. an accident involving Town property or employee injury;
5. physical altercation;
6. verbal altercation;
7. unusual behavior;
8. possession of alcohol or drugs or drug paraphernalia;
9. information obtained from a reliable person with personal knowledge;
10. physical appearance such as sloppiness, disarray or red eyes; and/or
11. difficulty responding to simple questions such as time of day, location, etc.
12. difficulty performing simple tasks such as counting, touching nose, etc.

C. Any supervisory employee requesting an employee to submit to a drug and/or alcohol test shall document in writing the facts constituting reasonable suspicion that the employee in question is under the influence of alcohol or drugs,.

D. any supervisory employee encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request should remind the employee of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the supervisory employee should detain the employee for a reasonable time until the employee can be safely transported home.

PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, heroin, cocaine, morphine and its derivatives, PCP, methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

The testing process shall be one that is scientifically proven to be at least as accurate and valid as urinalysis using an immunoassay screening test (EMIT) with all positive screening results being confirmed utilizing Gas Chromatography/Mass Spectrometry GC/MS) before a sample is considered positive.

After consulting with expert staff of the laboratory or laboratories selected to perform the testing, the Town shall ensure that the test cutoff levels conform to the National Institute on Drug Abuse (NIDA) standards.

Test samples will be collected in a clinical setting, such as a laboratory collection station, doctor's office, hospital or clinic or in another setting approved by the Town on the basis that it provides for at least an equally secure and professional collection process. The town shall specify procedures to ensure that true samples are obtained.

The town shall specify measures to ensure that a strict chain of custody is maintained for the sample from the time it is taken, through the testing process to its final disposition.

Drug tests shall be performed by a laboratory selected based on its meeting standards that are the same or at least comparable in scope and rigor, as those used by the National Institute on Drug Abuse to certify laboratories engaged in urine drug testing for Federal agencies.

EMPLOYEE RIGHTS

Employees shall be entitled to representation during any interviews or discussions that could lead to a decision by the Town to take adverse action against the employee, regardless of whether these interviews or discussions occur before or after the sample is taken. However, the employee may be ordered to take the test immediately, with or without representation.

The sample collection process shall include the opportunity for the employee to provide information about factors other than illegal drug use (such as taking legally prescribed medications) that could cause a positive test result.

The employee shall receive a full copy of any confirmed positive test results

All confirmed positive samples shall be retained by the testing laboratory in secure frozen storage for one year following the test. At the employee's request and expense, the sample can be retested by that laboratory or another laboratory of the employee's choice.

RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-employment physicals

1. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties or responsibilities.
2. If a drug screen is positive at the pre-employment physical, the applicant must provide, within 24 hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. Existing employees, alcohol/drug tests:

1. A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and include termination.
2. If the drug screen is positive, the employee must provide, within 24 hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his/her supervisor

3. If an alcohol or drug test is confirmed positive for alcohol or drugs, the Town of Loomis shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with applicable and pertinent discipline procedures.

CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential file that will be kept securely under the control of the Personnel Officer. The reports or test results may be disclosed to other management personnel on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without employee consent, may also occur when:

1. The information is compelled by law or by judicial or administrative process;
2. the information has been placed at issue in a formal dispute between the employer and employee;
3. the information is to be used in administering an employee benefit plan;
4. the information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

SUMMARY

The Town of Loomis will not tolerate substance abuse by any Town employee. Employees who violate this policy will be disciplined as appropriate, up to and including discharge.